

**REMARKS**

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested.

**I. Amendments to the Claims**

By the foregoing amendments to the claims, claims 1-7 and 9-21 have been amended.

In particular, claim 1 has been amended to recite that  $R_2$  is "optionally substituted  $C_7$  cycloalkyl, substituted  $C_3$ - $C_7$  cycloalkyl or optionally substituted phenyl." This amendment is supported throughout the application as filed, such as in Examples 1-11 (describing various substituted cycloalkyl and substituted phenyl radicals).

Additional amendments to the claims have also been made to clarify the claim language, for consistency, and to bring the claims into better conformance with U.S. patent practice. These amendments are merely editorial in nature and are not intended to change the scope of the claims or any elements recited therein.

The amendments to the claims have been made without prejudice or disclaimer to any subject matter canceled or recited herein. Applicants reserve the right to file one or more continuation and/or divisional applications directed to any canceled subject matter. No new matter has been added, and entry of the foregoing amendments of the above-identified application is respectfully requested.

**II. Response to Claim Rejections Under 35 U.S.C. § 102**

At pages 2-8 of the Office Action, claims 1-7, 11-16, 19 and 20 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Matthews et al., U.S. Patent No. 7,291,612 and Matthews et al., U.S. Patent No. 7,081,456. These rejections are respectfully traversed.

It is well established that for prior art to be anticipatory, every element of the claimed invention must be disclosed in a single item of prior art in the form literally defined in the claim. *See, e.g., Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 213 U.S.P.Q. 81, 90 (Fed. Cir. 1986). Applicants submit that the Matthews et al. '612 and '456 patents each fail to satisfy this requirement, for at least the following reasons.

The Examiner has stated that the '612 patent reads on the present claims when  $R_2$  is a cycloalkyl,  $R_3$  is H and X is a bond (see page 8 of the Office Action). Applicants respectfully

disagree. In particular, R<sub>4</sub> (i.e. Z) is defined in the present claims as a carboxylic acid group or an ester thereof. In contrast, R<sub>4</sub> in the '612 patent is defined as a group which is always linked through an –N. Similarly for the '456 patent, in contrast to the present claims the reference R<sub>4</sub> represents –C(=O)NR<sub>6</sub>R<sub>7</sub>, which clearly is not a carboxylic acid group or an ester thereof.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the 102 rejections.

### **III. Response to Double Patenting Claim Rejections**

Claims 1-7, 11-16, 19 and 20 have been rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-8 of U.S. Patent No. 7,291,612 and claims 1-7 of U.S. Patent No. 7,081,456.

Applicants request that this rejection be held in abeyance until allowable subject matter is indicated.

### **IV. Response to Claim Rejections Under 35 U.S.C. § 103**

At pages 9-11 of the Office Action, claims 1-7, 11-16, 19 and 20 have been rejected under 35 U.S.C. § 103(a) as purportedly unpatentable over Bjork et al., WO 03/004495 and Bjork et al., U.S. Patent No. 6,642,249. This rejection is respectfully traversed.

To expedite prosecution in the present application, and not to acquiesce to the Examiner's rejection, the claims have been amended as described above. In particular, claim 1 has been amended to recite that R<sub>2</sub> is optionally substituted C<sub>7</sub> cycloalkyl, substituted C<sub>3</sub>-C<sub>7</sub> cycloalkyl or optionally substituted phenyl.

Applicants submit that the subject matter of the amended claims is not taught or suggested in the cited references. The Björk et al. references define R<sub>2</sub> as H or lower alkyl, wherein cyclic alkyl includes cyclic alkyl groups having 1-6 carbon atoms. Therefore, optionally substituted C<sub>7</sub> cycloalkyl, substituted C<sub>3</sub>-C<sub>7</sub> cycloalkyl and optionally substituted phenyl are novel and non-obvious over the Björk et al. references.

Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

**CONCLUSION**

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

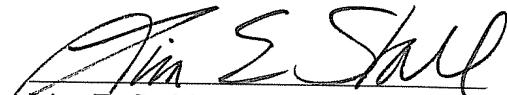
In the event that there are any questions related to this response, or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney at the below-listed telephone number concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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By:



Lisa E. Stahl

Registration No. 56704

**Customer No. 21839**  
703 836 6620